

## **REMARKS**

This is in response to the Office Action dated August 14, 2009. In view of the above amendments and the following remarks, reconsideration of the rejection and further examination are requested.

Initially, it is noted that the amendments described in the discussion of the rejections under §101 and §112 were suggested by the examiner to overcome these rejections. Applicant believes that these amendments do not affect the scope of the claims, but merely change the form of the claims to conform with the examiners suggestions.

### **Rejections under 35 U.S.C §101:**

Claims 24-34 have been rejected under 35 U.S.C §101 as being directed to non-statutory subject matter. This rejection is submitted to be inapplicable to the claims for the following reasons.

According to MPEP §2106(IV)(B), “a claimed invention may be a combination of devices that appear to be directed to a machine and one or more steps of the functions performed by the machine. Such instances of mixed attributes, although potentially confusing as to which category of patentable subject matter the claim belongs, does not affect the analysis to be performed by USPTO personnel. *Note that an apparatus claim with process steps is not classified as a "hybrid" claim; instead, it is simply an apparatus claim including functional limitation.*” Claims 24-34 are merely system claims with functional limitations. The functional limitations have been clarified, based on a discussion with the examiner; however, applicant believes that the scope of the claims remains the same. Furthermore, claims 24-35 have been amended to recite “at least one processor programmed with the following units” to clarify that claims 24-34 are not directed to “software per se” (see Office Action, page 6). As a result, claims 24-35 qualify as statutory subject matter under 35 U.S.C §101.

### **Rejection under 35 U.S.C §112:**

Claims 24-35 have been rejected under 35 U.S.C §112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. This rejection is submitted to be inapplicable to the claims for the following reasons.

According to MPEP §2173.05(g), “a functional limitation must be evaluated and considered, just like any other limitation of the claim, *for what it fairly conveys to a person or ordinary skill in the pertinent art in the context in which it is used*. A functional limitation is often used in association with an element...to define a particular capability or purpose that is served by the recited element.” Because of the nature of the language in the claims (e.g., a first license generation unit operable to generate a first license for controlling...), the functional limitations are not optional, and therefore, are not intended use language. An example of intended use language would be, for example, if the claim recited, “A content distribution system *for use in a digital communication network to distribute video media...*” Therefore, applicant respectfully disagrees with the examiner’s assertion that these limitations are merely an intended use and should not receive much patentable weight (see Office Action, page 3). Applicant respectfully requests that examiner fully consider the functional limitations in determining the patentability of the claims of the present invention.

Furthermore, claims 24, 29, and 35 have been amended to recite “depending on a condition of a transmission path” to clarify how “depending” is being used in this case. Claims 24, 29, 32, 34, and 35 have also been amended to recite “the modification of the first license, by a malicious user” to clarify what is being referred to as a modification. Note that the judgment unit detects either the presence or absence of the modification. Therefore, it is not necessary for the modification to actually occur. Finally, claim 24 has been amended to recite “a first license generation device operable to generate...and further operable to send the generated digital signature” to clarify that the “send” language is not optional (as noted by the examiner on page 3). Claims 25 and 30 has been amended to recite “a frequency band predetermined by a characteristic of the transmission path” to clarify how “predetermined” is being used within the claim.

#### **Rejections under 35 U.S.C §103(a):**

Claims 24, 27-29, and 32-35 have been rejected under 35 U.S.C §103(a) as being unpatentable over Nakahara (US Pub. 2003/0048907) in view of Takahashi (US 7,139,737). This rejection is submitted to be inapplicable to the claims, as amended, for the following reasons.

Claim 24 recites, in part, a second license generation unit operable to generate, in a second format, a second license by adding, to the first license, the digital signature for detecting

a modification of the first license, the second format being different from the first format, and further operable to add, to the generated second license, the format specification information received by the license management server, and a format conversion unit operable to obtain the second license from the relay server and further operable to convert the format of the second license into the first format, according to the format specification information added to the second license. The above features, as recited in claim 24, allow modifications of the first license to be detected, using the digital signature, after the second license has been converted into the first format. In addition, the features allow a license issuer to specify a processing format (the first format) of the license for the terminal device. The combination of Nakahara and Takahashi fails to disclose the above features, as recited in claim 24.

Nakahara discloses a conversion apparatus which converts license information so that it can be utilized by another, or so that it can be utilized on another terminal apparatus (see paragraph 11). As shown in Figure 1, the conversion apparatus Uc1 converts the license information Dlc1, compatible with the terminal apparatus 22 of the subscriber  $\beta$ , to license information Dlc2, compatible with the terminal apparatus 32 of the subscriber  $\delta$ , and returns the license information Dlc2 to the terminal apparatus 22 (see paragraph 126). This allows subscriber  $\beta$  to receive the license information Dlc2, converted from its own license information Dlc1, which can be used at the terminal apparatus 32 (see paragraph 126). In addition, Nakahara discloses an anti-tampering technique where information necessary to detect an alteration, such as hash, may be allocated in the usage admission information Dw1 (see paragraph 171).

Thus, Nakahara discloses a conversion apparatus that converts a license so that it is usable on another terminal. However, Nakahara does not disclose generating the license information Dlc2 by adding, to the license information Dlc1, a digital signature, for detecting modification to the license information Dlc1, and adding format specification information to the license information Dlc2 so the license information Dlc2 can be converted into the same format as the license information Dlc1, where the 2 license information formats Dlc1, Dlc2 are different. Therefore, Nakahara does not disclose or suggest a second license generation unit operable to generate, in a second format, a second license by adding, to the first license, the digital signature for detecting a modification of the first license, the second format being different from the first format, and further operable to add, to the generated second license, the format specification information received by the license management server, and a format

conversion unit operable to obtain the second license from the relay server and further operable to convert the format of the second license into the first format, according to the format specification information added to the second license, as recited in claim 24. Takahashi also fails to disclose or suggest the above features, as recited in claim 24.

Takahashi discloses a license management server and a relay server used in a software license management system. This system is designed to calculate the difference between the number of software licenses purchased and the number of software licenses used in individual sections so that an organization can purchase the proper number of software licenses (see col. 6, lines 42-54). However, Takahashi does not disclose generating second license information by adding, to the first license information, a digital signature, for detecting modification to the first license information, and adding format specification information to the second license information so the second license information can be converted into the same format as the first license information, where the two license information formats are different. Therefore, Takahashi does not disclose or suggest a second license generation unit operable to generate, in a second format, a second license by adding, to the first license, the digital signature for detecting a modification of the first license, the second format being different from the first format, and further operable to add, to the generated second license, the format specification information received by the license management server, and a format conversion unit operable to obtain the second license from the relay server and further operable to convert the format of the second license into the first format, according to the format specification information added to the second license, as recited in claim 24.

Accordingly, no combination of Nakahara and Takahashi would result in, or otherwise render obvious under 35 U.S.C. §103(a), the features recited in claim 24. As a result, claim 24 is patentable over the combination of Nakahara and Takahashi.

Claim 29 is patentable over the combination of Nakahara and Takahashi for reasons similar to those discussed above with regard to independent claim 24. Specifically, claim 29 recites a license management server, a relay server, and a terminal device, wherein the relay server generates, in a second format, a second license by adding, to the first license, a digital signature for detecting a modification of the first license, the second format being different from a first format, adds, to the generated second license, format specification information, and distributes the second license, the terminal device generates the first license by format

transformation by obtaining the second license and converting the second license using the format specification information, and the license management server includes a specification information receiving unit operable to receive an input of the format specification information that is an instruction, to the terminal device, for converting the format of the second license into the first format. Since the above features of claim 29 are not disclosed or suggested by the combination of Nakahara and Takahashi, claim 29 is patentable over the combination of Nakahara and Takahashi.

Claim 32 is patentable over the combination of Nakahara and Takahashi for reasons similar to those discussed above with regard to independent claim 24. Specifically, claim 32 recites a license management server, a relay server, and a terminal device, wherein the relay server includes a second license generation unit operable to generate, in the second format different from the first format, the second license by adding, to the first license generated in the first format, the digital signature of the first license received from the license management server, further operable to receive an input of format specification information from the license management server, the format specification information that is an instruction, to the terminal device, for converting the format of the second license to the first format, and further operable to add the received format specification information to the generated second license, and wherein the terminal device generates the first license by format transformation by obtaining the second license and converting the second license using format specification information, detects presence or absence of the modification of the generated first license, by a malicious user, based on the digital signature, and, in the case where no modification is detected, uses the content according to the first license. Since the above features of claim 32 are not disclosed or suggested by the combination of Nakahara and Takahashi, claim 32 is patentable over the combination of Nakahara and Takahashi.

Claim 34 is patentable over the combination of Nakahara and Takahashi for reasons similar to those discussed above with regard to independent claim 24. Specifically, claim 34 recites a license management server, a relay server, and a terminal device, wherein the terminal device includes a format conversion unit operable to obtain the second license generated in the second format from the relay server, and further operable to convert a format of the obtained second license into a first format different from the second format so as to generate the first license according to format specification information that is an instruction to the terminal device

for converting the format of the second license to the first format, and that is added to the second license, wherein the relay server generates a second license generated, in a second format, by adding, to the first license, a digital signature for detecting a modification of the first license, the second format being different from the first format, and distributes the second license. Since the above features of claim 34 are not disclosed or suggested by the combination of Nakahara and Takahashi, claim 34 is patentable over the combination of Nakahara and Takahashi.

Claim 35 is patentable over the combination of Nakahara and Takahashi for reasons similar to those discussed above with regard to independent claim 24. Specifically, claim 35 recites generating a second license in a second format different from the first format by adding, to the first license, a digital signature for detecting a modification of the first license, and adding the format specification information received by the license management server to the generated second license, the generation and adding being executed by the relay server, and converting the format of the second license into the first format by obtaining the second license from the relay server, according to the format specification information added to the second license, the conversion being executed by the terminal device. Since the above features of claim 35 are not disclosed or suggested by the combination of Nakahara and Takahashi, claim 35 is patentable over the combination of Nakahara and Takahashi.

Claims 27-28 are dependent on independent claim 24. Claim 33 is dependent on independent claim 32. Therefore, claims 24, 27-29, and 32-35 are allowable over the combination of Nakahara and Takahashi.

Claims 25-26 and 30-31 have been rejected under 35 U.S.C §103(a) as being unpatentable over Nakahara (US Pub. 2003/0048907) in view of Takahashi (US 7,139,737) and further in view of Sprigg (US Pub. 2003/0051169). This rejection is submitted to be inapplicable to the claims for the following reasons.

Claims 25-26 are either directly or indirectly dependent on independent claim 24 discussed in detail above. Claims 30-31 are either directly or indirectly dependent on independent claim 29 discussed in detail above.

Sprigg is relied upon in the rejection as disclosing sending a digital signature to a relay server and instructing the relay server to generate a permission list for use with an application on a device. However, it is apparent that Sprigg fails to disclose or suggest the features lacking from the combination of Nakahara and Takahashi discussed above with regard to independent claims

24 and 29. Accordingly, no combination of Nakahara, Takahashi, and Sprigg would result in, or otherwise render obvious under 35 U.S.C. §103(a), the features recited in claims 24-26 or 29-31. Therefore, claims 24-26 and 29-31 are patentable over the combination of Nakahara, Takahashi, and Sprigg.

Because of the above-mentioned distinctions, it is believed clear that claims 24-35 are allowable over the references relied upon in the rejection. Furthermore, it is submitted that these distinctions are such that a person having ordinary skill in the art at the time of the invention would not have been motivated to combine the references of record in such a manner as to result in, or otherwise render obvious, the present invention as recited in 24-35. Therefore, it is submitted that claims 24-35 are clearly allowable over the prior art of record.

In view of the above amendments and remarks, it is submitted that the present application is now in condition for allowance. The examiner is invited to contact the undersigned by telephone if it is felt that there are issues remaining which must be resolved before allowance of the application.

Respectfully submitted,

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